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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,955	09/12/2000	Steven G. Lemay	3735-932	6102

7590 01/06/2004

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EXAMINER	
BROCKETTI, JULIE K	

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 01/06/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/659,955	Applicant(s) LEMAY ET AL.	
	Examiner Julie K Brocketti	Art Unit 3713	

-- The MAILING DATE of this communication app ars on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 November 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6,7,23-25 and 27-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6,7,23-25 and 27-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 7, 28-30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al., U.S. Patent No. 5,326,104 in view of Bridgeman et al., U.S. Patent No. 5,984,779 in view of "Regulation 14" of the Nevada Gaming Statutes. Pease et al. discloses a method for configuring a paytable for a gaming terminal. The gaming terminal has a microprocessor, which controls game play on the gaming terminal. The microprocessor is coupled to a memory, a display device and at least one input device (See Pease Figs. 2 & 3). The gaming terminal receives identification information from a gaming operator. The identification information is compared with authorized identities to verify that the gaming operator is authorized to access the paytables of the gaming terminal (See Pease col. 19 lines 41-48; col. 24 lines 24-27col. 26 lines 43-55). The gaming machine receives information from a gaming operator, using an input device, for defining at least at part of the first paytable. Thereby modifying the stored paytable in order to define the new

paytable. The information for defining at least a first paytable comprises information for defining the magnitude of a monetary prize in the absence of an ability of the first user to define or change a prize win frequency. The gaming machine then calculates a first overall payback percentage and all possible game outcomes and prizes associated with each possible game outcome for the first paytable using the microprocessor (See Pease col. 26 lines 15-18, 32-42). The results of the calculations are compared to predetermined gaming criteria and a message is output if the results fail to comply with the criteria (See Pease col. 19 lines 49-57; col. 20 lines 1-13). For example, when a paytable is changed, the calculation results include a checksum and if the checksums do not match an error message is displayed. However, if the calculation results comply with the criteria then the paytable is stored in memory (See Pease col. 26 lines 32-42). Pease lacks in disclosing displaying information from a stored paytable different from the first paytable and electronically comparing the calculation results of the payback percentages with governmental regulatory gaming criteria.

Bridgeman et al. teaches of a gaming machine in which multiple paytables are stored. The display device displays information from a stored paytable, which is different from the other paytables and has a second overall payback percentage, which is different from the first overall payback percentage of the other paytables (See Bridgeman Figs. 4-7; col. 7 lines 25-40; col. 9 lines 15-31; col. 12 lines 41-49; col. 21 lines 20-67; col. 22 lines 1-7). It

would have been obvious to one of ordinary skill in the art at the time the invention was made to display information from a second stored paytable in the invention of Pease et al. By displaying a different paytable, the gaming operator can see what the payouts for the stored paytable are and can then adjust the new paytable to be different than what is already preset in the gaming machine. Therefore, the gaming operator can adjust the values to gain the overall payback percentage that they want.

Pease discloses inputting information into a gaming terminal indicative of a paytable change by a gaming operator. It is obvious that the new paytable is prevented from being used until all information is input into the gaming terminal confirming regulatory approval of the first paytable. It is well known throughout the art that every gaming terminal paytable requires approval from a regulatory agency (See "Regulation 14"). The Examiner notes that the date on the submitted Regulation 14 is August 2000; however, many of the statutes listed under the regulation have dates prior to Applicant's priority date. Furthermore, it is well known to anyone skilled in the art that regulatory approval for gaming machines existed prior to Applicant's priority date. The Examiner further notes that it has been well known throughout the art to compare paytables with predetermined governmental regulatory gaming criteria, i.e. the regulations and to notify the paytable manufacturer if the results fail to comply with the criteria. A person skilled in the art would first gain regulatory approval by comparing the paytable to predetermined

government regulatory gaming criteria for any paytable they use or else they would be breaking the law. Consequently, it would have been obvious at the time the invention was made to have the comparison involving gaming criteria in the invention of Pease be a comparison of governmental regulatory gaming criteria. It is obvious that the gaming operator would want to electronically prevent use of the paytable change until information is input to the gaming terminal confirming regulatory approval. One skilled in the art would know that the machine could be turned off or a command could be inserted into the game program to prevent game play or storage of a paytable in memory until regulatory approval was met. Consequently, it is obvious to implement the concept of gaining regulatory approval by comparing paytable values to predetermined government regulatory gaming criteria into any gaming machine. If regulatory approval is not granted for various aspects of the gaming machine, paytables, payback percentages, etc. the operator would be breaking the law and be subject to punishment. The process of automating a manual comparison process is obvious. Providing an automatic means to replace a manual activity, which accomplishes the same result, is not sufficient to distinguish over the prior art. *In re Venner,* 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). See also MPEP 2144.04 Section III.

Claim 6 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al. in view of Bridgeman in view of "Regulation 14" in further view of Walker, U.S. Patent No. 6,068,552. Pease lacks in suggesting

a modification to the paytable when the results fail to comply with the criteria. In Walker et al. after a user customizes a parameter, calculations to determine all other parameters are performed and the user must approve the new parameters before use. If a user inputs an invalid parameter, the calculation section will modify this parameter with a new suggested limit (See Walker et al. col. 9 lines 20-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to suggest a modification to the paytable when the results fail to comply with the criteria. It is well known throughout the art that when something is wrong, suggestions on how to correct the situation can be made in order to get the task accomplished.

Claims 23, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al. in view of "Regulation 14" of the Nevada Gaming Statutes. Pease discloses inputting information into a gaming terminal indicative of a paytable change by a gaming operator. The paytable change includes a change in overall payback percentage (See Pease col. 26 lines 32-42). It is obvious that the new paytable is prevented from being used until all calculations are performed, thereby gaining regulatory approval and user approval since every gaming terminal paytable requires approval from a regulatory agency. It is obvious that once an operator customizes a paytable, the paytable must undergo regulatory approval. Consequently, if regulatory approval is granted then the newly changed paytable may be used (See "Regulation 14"). The Examiner notes that the date on the submitted

Regulation 14 is August 2000; however, many of the statues listed under the regulation have dates prior to Applicant's priority date. Furthermore, it is well known to anyone skilled in the art that regulatory approval for gaming machines existed prior to Applicant's priority date. It is obvious that one could gain this approval electronically by transmitting the game related information to a remote computer of a gaming regulatory agency and then having the regulatory agency electronically analyze the game for regulatory compliance and then electronically transmit the approval of the paytable information back to the gaming terminal. Transmitting data electronically is well known throughout the art. The process of automating a manual comparison process is obvious. Providing an automatic means to replace a manual activity, which accomplishes the same result, is not sufficient to distinguish over the prior art. *In re Venner,* 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). See also MPEP 2144.04 Section III. Furthermore, it is well known throughout the gaming art that the regulatory authority either approves of changes to the gaming machines or fails to indicate regulatory compliance. It is also obvious that the gaming operator would want to electronically prevent use of the paytable change until information is input to the gaming terminal confirming regulatory approval. This can be accomplished through turning off the machine or preventing access through software, i.e. not allowing a player access to the game until a password is entered or a certain condition is met, all

of which are well known throughout the art to prevent player access to the gaming terminal

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al. in view of "Regulation 14" in further view of Walker, U.S. Patent No. 6,068,552. Pease lacks in suggesting a modification to the paytable when the results fail to comply with the criteria. In Walker et al. after a user customizes a parameter, calculations to determine all other parameters are performed and the user must approve the new parameters before use. If a user inputs an invalid parameter, the calculation section will modify this parameter with a new suggested limit (See Walker et al. col. 9 lines 20-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to suggest a modification to the paytable when the results fail to comply with the criteria. It is well known throughout the art that when something is wrong, suggestions on how to correct the situation can be made in order to get the task accomplished. Consequently, it is obvious to implement the concept of gaining regulatory approval into any gaming machine. If regulatory approval is not granted for various aspects of the gaming machine, paytables, payback percentages, etc., the operator would be breaking the law and be subject to punishment.

Response to Amendment

It has been noted that claims 1, 2 and 23 have been amended. New claims 28-33 have been added.

Response to Arguments

Applicant's arguments filed November 24, 2003 have been fully considered but they are not persuasive.

Applicant argues that Pease fails to disclose "displaying, on said display device, information from a stored paytable, different from said first paytable, and having a second overall payback percentage which is different from the first overall payback percentage." The Examiner agrees that Pease fails to disclose this limitation but notes that Bridgeman clearly does disclose this limitation and that the combination of references is obvious.

Applicant further argues that Pease fails to disclose "electronically comparing, in said gaming terminal, results of said calculating to predetermined government regulatory gaming criteria, and outputting a message if said results fail to comply with said criteria; and storing said first paytable in said memory if said results comply with said criteria." The Examiner notes that Pease does disclose electronically comparing results of said calculating to other gaming criteria and that it would be obvious in view of Regulation 14 to use governmental regulatory gaming criteria for the comparison, since gaming machines must comply with these regulations.

Applicant further argues that Bridgeman fails to teach the concept of screening of a paytable by comparison with "predetermined government regulatory gaming criteria..." The Examiner notes that comparing paytables with predetermined government regulatory gaming criteria is well known throughout the art. All paytables must pass regulatory approval prior to use in a particular area. Furthermore, it is obvious to utilize an electronic comparison system. As previously stated, simply automating a manual process is not sufficient to distinguish from the prior art. *In re Venner,* 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). See also MPEP 2144.04 Section III. The Applicant appears to be simply taking a manual process, that of submitting paytables by mail, or hand delivery, etc. to governmental regulatory authorities for approval, and automating the processes through electronic transmission. Consequently, the automated process does not distinguish from the prior art.

The Examiner notes that an automatic electronic prevention of use of a first paytable until information is input to the gaming terminal confirming regulatory approval of the first paytable is obvious. The phrase "electronic prevention" is also very vague. As previously stated, a gaming operator can turn off the gaming machine until the paytable receives regulatory approval. Consequently, since the machine is turned off, there is "electronic prevention of use of a first paytable", i.e. no power supporting its use. Furthermore, it is well known that various software techniques could be implemented in which a player is denied access to a game on a gaming machine until a manager

password is inputted etc., thereby preventing use of the paytable. The fact that some individuals might not comply with the regulations, does not mean that all won't. Most gaming manufacturers and operators know what regulations must be met prior to any game play and they take precautions to make sure that they are complied with.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brocketti whose telephone

number is 703-308-7306. The examiner can normally be reached on M-Th 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg SPE can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-308-1148.

JB

T Walberg

Teresa Walberg
Supervisory Patent Examiner
Group 3700